

COMMITTEE ON LAND USE
(Standing Committee of Berkeley County Council)

Chairman: Mr. Phillip Farley, Council Member District No. 1

A meeting of the **COMMITTEE ON LAND USE**, Standing Committee of Berkeley County Council, was held on **Monday, August 9, 2010**, in the Assembly Room of the Berkeley County Administration Building, 1003 Highway 52, Moncks Corner, South Carolina, at 6:09 pm.

PRESENT: Chairman Phillip Farley, Council District No. 1; Committee Member Timothy J. Callanan, Council District No. 2; Committee Member Robert O. Call, Jr., Council District No. 3; Committee Member Cathy S. Davis, Council District No. 4; Committee Member Dennis L. Fish, Council District No. 5; Committee Member Jack H. Schurlknight, Council District No. 6; Committee Member Caldwell Pinckney, Jr., Council District No. 7; County Supervisor Daniel W. Davis; Ms. Nicole Ewing, County Attorney and Ms. Barbara B. Austin, Clerk of County Council. Committee Member Steve C. Davis, Council District No. 8 was absent.

In accordance with the Freedom of Information Act, the electronic and print media were duly notified.

Chairman Farley called the meeting to order. Mr. Chip Boling provided the Invocation and Chairman Farley led in the Pledge of Allegiance to the Flag of the United States of America.

Chairman Farley: "First is the approval of minutes from the July 12, 2010 meeting."

Committee Member Pinckney: "So move"

Committee Member Schurlknight: "Second"

Chairman Farley: "I have a motion and I have a second. Is there any discrepancies or corrections? (No Response) All in favor? (Ayes) All opposed? (No Response) Minutes stand approved as presented."

It was moved by Committee Member Pinckney and seconded by Committee Member Schurlknight to **approve** the minutes as presented. The motion passed by unanimous voice vote of the Committee.

A. Mr. Raymond Newhouse, Vice President & CFO of Lanxess Corporation: Re: Filing extensions for Agricultural use for tax years 2007, 2008 and 2009 on **TMS #246-00-00-019**.

Chairman Farley: "Mr. Newhouse here? (No Response) Wilson, would you like to tell us?"

Mr. Wilson Baggett, Berkeley County Assessor: “Yes sir, I’m not sure how much information y’all had an opportunity to go over it, but he had submitted a letter addressed to the County and also to the Clerk of Court, Clerk of Council requesting that they be granted an AG extension much like the instances we had last year where individuals claimed that they didn’t have an ample opportunity to file an AG form and request an extension for one year. This individual on behalf of Lanxess is requesting three years. The letter, this is his letter requesting the extension. The County’s position is that Lanxess...if you haven’t had a chance to read the letter, I can give you a few minutes, but I’ve broken out the criteria in my August 5th letter to Mr. Farley and it outlines all of the criteria from our perspective. Lanxess is in the location of Bushy Park. Lanxess sold that tract with all of the other components to Cooper River Partners in September, October of 2009. Subsequently, requested a refund for the years that they had ownership. All of the mail and correspondence with Lanxess Corporation was directed to their Tax Department, so we did not feel....”

Chairman Farley: “And on that, doesn’t it state that if they want to file an appeal or anything, they have 30 days?”

Mr. Baggett: “That is on every tax bill, yes sir. Every tax bill that we mail, which was in 2007, 2008 and 2009, had remarks or directions for the property owner to file any appeal and our phone numbers were attached to the tax bill, which they could have directed information to us as well as the website also has directions for filing for AG use as well as any rollback potential for this property. They are questioning the 781 acres which is north of the manufacturing sites that do not qualify for AG use. The owner never qualified or actually requested AG use on the site at any point. I think they purchased in 2003 or 2004 from Miles and state statute states that in a...it’s listed in the letter at the end, the bottom....”

Chairman Farley: “12-60-1750”

Mr. Baggett: “Yes sir, that is one avenue for refunding. There is also another for Failure to File under 12-43-220, paragraph three means that the property owner waives his right to file when he does not file by the deadline. Then you have to reference the 12-60-1750, which carries it a step further, meaning that under paragraph one there, a property tax exemption requiring an application can be refunded but it has to be filed timely and there was no application at any point. There are several issues and at the very end of the letter there is a nutshell of what the request...how it may impact the County. The amount is approximately \$183,000 and that amount would...about 20% of that would be the County’s liability and 80% would be the school district’s liability.”

Committee Member Schurlknight: “Mr. Chairman?”

Chairman Farley: “Yes sir”

Committee Member Schurlknight: "Wilson, did they give you any kind of reason why they waited so late in the game? It concerns me. You are looking back all the way back to 07. It would be a little different if it was within the last six months, but this far back...."

Mr. Wilson: "Well, I'll be honest with you. There are several reasons why this is coming up and I cannot speak for them, but I know that there have been requests by tax representatives to go out and actively pursue AG applications for larger tract owners to pursue a reduction in taxes just on that line. It's a pretty simple way to reduce your taxes."

Mr. Schurlknight: "Each corporation would go out for a fee and find this cost savings."

Mr. Wilson: "That's up to them. They can do whatever they need for us we try to look at each property independently but you were asking us why....the letter is the only thing I have to go by and they were saying that the Assessor just never told them. Well, I have no obligation under statute to tell anyone about AG use, but I do advertise for AG use. Like Mr. Farley, our Chairman, was asking, 'Is is noticeable?' The tax bill states to contact us if you are in disagreement with the tax bill, so they had ample opportunity, three years compounded, and no contact until this year. Now the new corporation, Cooper River Partners, did file and will have AG use from 2010 forward, but they had no right to go backwards because we were past the deadline."

Mr. Schurlknight: "That is what has me concerned is the length of time, going back that far. I think the other ones that we looked at, one other one that we looked at was one year, within that recent year, but to go back three years, I have some concerns about that."

Committee Member Callanan: "Mr. Chairman?"

Chairman Farley: "Mr. Callanan"

Committee Member Callanan: "Wilson, one would think that the...when they see their tax bill go up from \$1,000 to \$58,000, that would actually be some indication for them that they don't have that use anymore."

Mr. Wilson: "That is not exactly the case. The \$1,000 is a potential tax bill for the AG use. The property was never under AG use. So, it never had the \$1,000 or \$1,500, whatever it might be, tax value on it. The property was always categorized under the manufacturing heading by the Department of Revenue. The Department of Revenue always handled the Lanxess properties. The County then became responsible or liable for administering the tax in 2007 and that is when the change occurred. The Department of Revenue instructed us that the 781 acres were not part of the manufacturing site so they had no jurisdiction. When the tract was separated, we began taxing in 07. They were taxing the other 500 acres with the plant site, but if you break out the tax liability on the breakup, it is almost the same."

Committee Member Callanan: "The issue, too, is you know, you brought up those two other cases. I think those were quite different in that they were cases like I mentioned, where

they lost, they did not apply, so therefore they lost. Both of those cases had a problem with the addresses. Here, we know they are getting them. They have been paying the tax. They just want to go back in time and not pay them.”

Mr. Wilson: “Yes sir. This one is different.”

Committee Member Callanan: “Thank you.”

Chairman Farley: “Mr. Schurlknight?”

Committee Member Schurlknight: “Mr. Chairman, I move to deny.”

Committee Member Pinckney: “Second”

Chairman Farley: “I have a motion and a second to deny. Is there any more discussion? (No Response) All in favor? (Ayes) All opposed? (No Response) Motion carries.”

It was moved by Committee Member Schurlknight and seconded by Committee Member Pinckney to deny the filing extensions for Agricultural Use for **Lanxess Corporation, TMS #246-00-00-019**. The motion passed by unanimous voice vote of the Committee.

B. Consideration prior to First Reading of the following:

1. Request by Lloyd Driggers, Jr., 2106 South Live Oak Drive, Moncks Corner, TMS #180-14-01-038 (2.75 +/- acres), from GC, General Commercial District, to R-2, Manufactured Residential District. Council District No. 6.

[Staff recommended approval]

[Planning Commission recommended approval]

Committee Member Schurlknight: “Move for approval”

Committee Member Pinckney: “Second”

Chairman Farley: “I have a motion and a second. Is there any discussion?”

Committee Member Fish: “Mr. Chairman, I have a question.”

Chairman Farley: “Yes sir”

Committee Member Fish: “They are asking for manufactured residential district. They talk about adding onto a house. Is that consistent? They are talking about a house, but yet they are going for manufactured.....”

Mr. Eric Greenway, Zoning Administrator: "If you look at the adjacent zoning classifications, it's pretty much R-2 there on the map and we felt from a consistency standpoint with those adjacent zonings that R-2 would be the better situation here. But, yes sir, there is an existing structure on the property that started out as a house some time ago and never was finished and they are desiring to try to get a permit to complete that house. With it zoned General Commercial, that does not allow single family residential. R-2 does."

Committee Member Fish: "If they go to Manufactured Residential, that means they can put more than one unit on their property?"

Mr. Greenway: "There is that potential if they sub-divided the property, but not unless they do a separate survey to create a separate lot. It would only be the one structure."

Chairman Farley: "Any more discussion? (No Response) All in favor (Ayes) All opposed? (No Response) Motion carries.

It was moved by Committee Member Schurlknight and seconded by Committee Member Pinckney to **approve** prior to **First Reading the Request by Lloyd Driggers, Jr.** The motion passed by unanimous voice vote of the Committee.

C. Review prior to Second Reading of the following:

1. Bill No. 10-30, an ordinance to modify the official Zoning and Development Standards Map of Berkeley County, South Carolina, Re: Danny Baston, 230 Royle Road, Ladson, TMS #242-00-02-055, (10.99 +/- acres), from GC, General Commercial District to HI, Heavy Industrial District. Council District No. 4.

Committee Member C. Davis: "Mr. Chairman?"

Chairman Farley: "Yes madam"

Committee Member C. Davis: "Eric has a change that we would like to make to this."

Mr. Greenway: "I do apologize to the Council. Staff did not do all of our homework on this before we brought this application to you. There has been a lot of concerns generated over this application about rezoning this particular piece of property to Heavy Industrial. I share those concerns and after further reviewing the Zoning Ordinance, I have determined that Light Industrial would accomplish the same situation for this gentleman to be able to build his parts building on this property because Light Industrial allows outdoor storage as well. We, as Staff, feel that's a better zoning classification being that there is Light Industrial property already in the area adjacent to this particular piece of property. We are recommending that you all amend tonight's application to be for LI and not HI."

Chairman Farley: "It will come for next reading as LI?"

Mr. Greenway: "Yes, you can recommend Second Reading as LI this evening. We will have to take this back to the Planning Commission, just for their concurrence on a recommendation at the next meeting, but that will be well within the time frame for Third Reading."

Chairman Farley: "Ok, would you like me to re-read this into the record as LI?"

Mr. Greenway: "I will defer to the Clerk to Council on that."

Chairman Farley: "I'll re-read it into the record and go from LI. Bill 10-30, an ordinance to modify the official Zoning and Development Standards Map of Berkeley County in regards to Danny Baston of 230 Royle Road, Ladson. TMS #242-00-02-055 and that is from LI to....from GC to LI."

Committee Member C. Davis: "Move for approval"

Committee Member Callanan: "Second"

Chairman Farley: "I have a motion and a second. Is there any discussion? (No Response) All in favor? (Ayes) All opposed? (No Response) Motion carries."

It was moved by Committee Member C. Davis and seconded by Committee Member Callanan to **approve** prior to **Second Reading, Bill No. 10-30.** The motion passed by unanimous voice vote of the Committee.

2. Bill No. 10-31, an ordinance to modify the official Zoning and Development Standards Map of Berkeley County, South Carolina, Re: John and Lucretta Winningham, 1613 & 1621 South Live Oak Drive, Moncks Corner, TMS #161-14-00-024, (0.45 acres), and #161-14-00-025, (0.35 acres), from R-2, Manufactured Residential District to GC, General Commercial District. Council District No. 6.

It was moved by Committee Member Schurlknight and seconded by Committee Member Pinckney to **approve** prior to **Second Reading, Bill No. 10-31.** The motion passed by unanimous voice vote of the Committee.

3. Bill No. 10-32, an ordinance to modify the official Zoning and Development Standards Map of Berkeley County, South Carolina, Re: Johnnie Capers for Leonard Boyd and Jack Pryor, 1116 Old Gilliard Rd, Ridgeville, TMS #175-00-01-064, (0.227 acres), from F-1, Agricultural District to RNC, Rural & Neighborhood Commercial District. Council District No. 7.

It was moved by Committee Member Pinckney and seconded by Committee Member Schurlknight to **approve** prior to **Second Reading, Bill No. 10-32.** The motion passed by unanimous voice vote of the Committee.

4. Bill No. 10-33, an ordinance to modify the official Zoning and Development Standards Map of Berkeley County, South Carolina, Re: **Earthsource Engineering for Shirley Huggins and John Avinger**, located on Clements Ferry Road across the street from Marina Drive, Charleston, TMS #271-00-02-174 and 029, (58.10 acres), **from GC, General Commercial District and R-4, Multi-Family District, Small Scale, to PDMU, Planned Development Mixed Use District**. Council District No. 8.

It was moved by Committee Member Callanan and seconded by Committee Member Schurlknight to **approve** prior to **Second Reading, Bill No. 10-33**. The motion passed by unanimous voice vote of the Committee.

D. Review prior to Third Reading of the following:

1. Bill No. 10-24, an ordinance to amend and clarify certain sections of Ordinance No. 01-8-35, adopted August 27, 2001, Zoning and Development Standards Ordinance “**Berkeley County Zoning Ordinance**” and amending Ordinances Nos. 02-08-33, 02-12-58, 04-11-68, 05-03-08, 05-08-58, 06-09-63, 06-12-92, and 07-07-43, in regard to the regulation of Institutional Residential Land Uses and changes to the permitted Use Table.

It was moved by Committee Member C. Davis and seconded by Committee Member Pinckney to **approve** prior to **Third Reading, Bill No. 10-24**. The motion passed by unanimous voice vote of the Committee.

2. Bill No. 10-25, an ordinance to modify the official Zoning and Development Standards Map of Berkeley County, South Carolina, Re: **Maxine Winningham**, 1968 Cypress Campground Road, Ridgeville, TMS #177-00-00-165, (1.50 +/- acres), **from GC, General Commercial District to PDMU, Planned Development Mixed Use District**. Council District No. 7.

It was moved by Committee Member Pinckney and seconded by Committee Member Schurlknight to **approve** prior to **Third Reading, Bill No. 10-25**. The motion passed by unanimous voice vote of the Committee.

3. Bill No. 10-26, an ordinance to modify the official Zoning and Development Standards Map of Berkeley County, South Carolina, Re: **Robert and Lori Hammond**, for Hammond Family, LLC, located off Cypress Gardens Road behind the par 3 golf course, Moncks Corner, TMS #210-00-00-198, (15.27 acres), **from HI, Heavy Industrial District and R-1, Single Family Residential District, to R-2R(F), Mobile Home Rural Farm Residential District**. Council District No. 6.

It was moved by Committee Member Schurlknight and seconded by Committee Member Pinckney to **approve** prior to **Third Reading, Bill No. 10-26**. The motion passed by unanimous voice vote of the Committee.

It was moved by Committee Member Callanan and seconded by Committee Member Schurlknight to **adjourn** the Committee on Land Use meeting. The motion passed by unanimous voice vote of the Committee.

The meeting ended at 6:25 pm.

September 13, 2010
Date Approved

COMMITTEE ON LAND USE
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Chairman: Mr. Phillip Farley, District No. 1

Members: Mr. Timothy J. Callanan, District No. 2
Mr. Robert O. Call, Jr., District No. 3
Mrs. Cathy S. Davis, District No. 4
Mr. Dennis Fish, District No. 5
Mr. Jack H. Schurlknight, District No. 6
Mr. Caldwell Pinckney, Jr., District No. 7
Mr. Steve C. Davis, District No. 8
Mr. Daniel W. Davis, Supervisor, ex officio

A **meeting** of the **COMMITTEE ON LAND USE**, Standing Committee of Berkeley County Council, will be held on **Monday August 9, 2010**, at **6:00 p.m.**, in the Assembly Room, Berkeley County Administration Building, 1003 Highway 52, Moncks Corner, South Carolina.

AGENDA

INVOCATION

PLEDGE OF ALLEGIANCE TO THE FLAG OF THE UNITED STATES OF AMERICA

APPROVAL OF MINUTES

July 12, 2010

A. Mr. Raymond Newhouse, Vice President & CFO of Lanxess Corporation: Re: Filing extensions for Agricultural use for tax years 2007, 2008 and 2009 on **TMS #246-00-00-019**.

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August 4, 2010
S/Barbara B. Austin, CCC
Clerk of County Council